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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------------|
| 09/787,555 | 03/20/2001 | Takanori Yokoyama | 503.39781X00 | 3956 |
| 24956 7590 05/10/2007 MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314 | | | EXAMINER ABEL JALIL, NEVEEN | |
| | | | ART UNIT 2165 | PAPER NUMBER |
| | | | MAIL DATE 05/10/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/787,555

Applicant(s)

YOKOYAMA ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 16 April 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

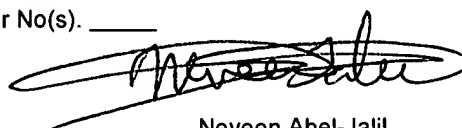
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



Neveen Abel-Jalil
AU 2165

Applicant's timely response including corrections to informalities is appreciated.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 4/16/2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that combined references of Janky and Menig does not teach "periodically sending or receiving messages" is respectfully acknowledged but not deemed to be persuasive.

The applicant argues various portions cited by the Examiner showing example of the interpretation of "periodically" leaving behind the general teachings of the combined cited art still covering the general concept of the applicant's invention. The Applicant's arguments are directed to semantic interpretation of the word "periodically" which the Examiner has given its broadest reasonable interpretation. The Examiner still does not see the distinction of what is argued on page 10, line 14, of the remarks, "Examiner has improperly changed the meaning of "periodically" to "regular time interval" which Merriam-Webster online dictionary defined "periodically" as "at regular time interval"". Just from that sentence alone, they appear as substantially semantically equivalent meanings.

Applicant's argument that "broadcasting" is not the same as "periodically sending or receiving" is not found to be persuasive.

According to google.com and various technical dictionaries, "broadcasting" is defined as "transmitting information during a period of time" (i.e. at a regular period of time). It is well known in the database art that broadcasting occurs periodically.

Applicant also argues that the Examiner is attempting to improperly import features of a background art into an embodiment of the relied upon art. The Examiner contends if it is taught by the reference, then the Applicant is responsible for considering the cited art in its entirety including teachings of the background as they are representations of the state of the art. The background section is a required and critical part of the reference, its designed to discuss and help the reader understand the invention enclosed within.